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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/712,786      | 11/12/2003  | Terrence W. Schmidt  | 1934-9-3            | 7807             |

7590 05/10/2006  
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| EXAMINER |
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OLSON, LARS A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3617

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/712,786 | <b>Applicant(s)</b><br>SCHMIDT ET AL. |  |
|                              | <b>Examiner</b><br>Lars A. Olson     | <b>Art Unit</b><br>3617               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03232006</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. An amendment was received from the applicant on March 23, 2006.

#### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).
3. Misnumbered claim 22 has been renumbered as claim 21.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Janssen (US 6,550,408).

Janssen discloses the same marine vessel as claimed, as shown in Figures 1-10d, said marine vessel being comprised of a propulsion device, defined as Part #2 or 2', first and second hulls, defined as Parts 1 and 1', which carry said propulsion device and having multiple operating modes, as described in lines 62-67 of column 4 and lines 1-23 of column 5, in which said hulls are operable to be moved by said propulsion device from a first geographic location to a second geographic location, and a ballast system, as described in lines 22-37 of column 12, that is operable to select one of said operating modes. Said ballast system is operable to select one of said operating modes by adjusting the draft of said marine vessel using a payload in the form of water, or ballast in the form of water. Said operating modes include a shallow draft or catamaran mode, defined by water line (20) in Figure 2. A draft that is shallower than indicated by water line (20) is also possible using said ballast system to reduce water payload in said first and second hulls.

Janssen also discloses the same method as claimed, as shown in Figures 1-10d, said method being comprised of the steps of selecting one of multiple hull modes for a water vessel with a propulsion device, as described in lines 62-67 of column 4 and lines 1-23 of column 5, and operating said water vessel in a selected hull mode, where the step of selecting a hull mode is further comprised of setting a draft of said water vessel by means of a ballast system, as described in lines 22-37 of column 12, to a level that corresponds to one of said multiple hull modes. Said hull modes include a shallow draft or catamaran mode, defined by water line (20) in Figure 2. A draft that is shallower than

indicated by water line (20) is also possible using said ballast system to reduce water payload in said first and second hulls.

### ***Response to Arguments***

6. Applicant's arguments filed on March 23, 2006 regarding claims 1-21 have been fully considered but they are not persuasive.

7. The applicant argues that the vessel as disclosed by Janssen (US 6,550,408) does not operate in at least one of a shallow draft or catamaran mode, or a very shallow draft or logistics mode.

8. In response to the applicant's argument, Janssen discloses a marine vessel with multiple operating modes, as shown in Figure 2, where one of said operating modes includes a shallow draft or catamaran mode, defined by water line (20). Said marine vessel is also fitted with a ballast system that allows the capability for changes in the draft of said vessel above or below the water line (20). Thus, the marine vessel as disclosed by Janssen shows all of the features as claimed by the applicant. Therefore, the rejection of claims 1-21 is deemed proper and is not withdrawn.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3617

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (571) 272-6685.

lo

May 9, 2006

LARS A. OLSON  
PRIMARY EXAMINER

*Lars Olson*  
5/9/06